

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF TEMPORARY CHANGE )

MEMORANDUM DECISION

APPLICATION NUMBER 55-11103 (t93-55-43))

Temporary Change Application Number 55-11103 (t93-55-43), in the names of Pacificorp dba Utah Power and Light Company and Metropolitan Water District of Orem, was filed on January 10, 1994, to change the point of diversion, place of use, and nature of use of 10.36 cfs of water. Heretofore, the water has been diverted from Ontario Drain Tunnel and the Provo River at the following points located: 1) South 1750 feet and West 1640 feet from the NE Corner of Section 24, T2S, R4E, SLB&M; and 2) North 578 feet and East 1370 feet from the S $\frac{1}{4}$  Corner of Section 27, T5S, R3E, SLB&M; and 3) South 147 feet and West 189 feet from the NE Corner of Section 7, T5S, R4E, SLB&M; and 4) North 1070 feet and East 641 feet from the W $\frac{1}{4}$  Corner of Section 7, T6S, R3E, SLB&M.

The water has been used for the irrigation of 4332.53 acres, hydro-power generation at the Olmstead Power Plant, and steam-power generation at the Hale Power Plant, in the SW $\frac{1}{4}$  of Section 34, T5S; Section 15; E $\frac{1}{2}$  of Section 16; E $\frac{1}{2}$  of Section 21; Section 22; Section 23; W $\frac{1}{2}$  of Section 24; W $\frac{1}{2}$  of Section 25; Section 26; Section 27, T6S, R2E, SLB&M.

Hereafter, it is proposed to divert 10.36 cfs of water from Ontario Drain Tunnel and Provo River at a point located North 578 feet and East 1370 feet from the S $\frac{1}{4}$  Corner of Section 27, T5S, R3E, SLB&M (Olmstead flow line) and a point South 147 feet and West 189 feet from the S $\frac{1}{4}$  Corner of Section 27, T5S, R4E, & SLB&M (Salt Lake Aqueduct). It is proposed to use the water for municipal purposes in Orem from December 30, 1993, to December 29, 1994.

The application was advertised in The Daily Herald on January 20, 1994, and was protested by Metropolitan Water District of Salt Lake City. In the protest, it is stated that the applicant does not have any right to utilize the Salt Lake Aqueduct. A hearing was not held.

The applicant contacted the Division of Water Rights on February 9, 1994, requesting that the point of diversion for the Salt Lake Aqueduct be omitted from the application. The Salt Lake Aqueduct was subsequently stricken from the application. It appears that the application can be approved without impairing other water rights.

It is, therefore, **ORDERED** and Temporary Change Application Number 55-11103 (t93-55-43) is hereby **APPROVED** subject to prior rights and with the condition that the application is approved for one year from the date of this decision.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the

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Request is filed.

Dated this 18th day of February, 1994.

  
Robert L. Morgan, P.E., State Engineer

RLM:JER:mw

Mailed a copy of the foregoing Memorandum Decision this 18th day of February, 1994, to:

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